

APPENDIX B

IPO COMMON QUESTIONS
COURT FOUND ANY PLAINTIFF WILL HAVE TO PROVE
COMPARED TO AWP COMMON QUESTIONS

IPO Common Question Listed by the Court	AWP Common Question
“The participation of each defendant in the alleged scheme.”	<i>Same proof required</i>
The existence and terms of tie-in agreements, and the process by which defendants induced allocants to enter into tie-in agreements.	<i>Existence of marketing spread to physicians/PBMs</i>
Defendants’ failure to disclose the existence, extent and purpose of the tie-in agreements, and the materiality of that omission.	<i>Failure to disclose true spread and marketing of it</i>
The existence and magnitude of excess compensation, and how such payments were induced. If excess compensation was paid in unusual forms, such as wash sales, that those actions amounted to payment of excess compensation.	<i>The existence of the magnitude of spreads</i>
Defendants’ failure to disclose excess compensation, and the materiality of defendants’ omission.	<i>Failure to disclose spreads/inducements</i>
Where defendants conducted a secondary public offering (“SPO”) (e.g., Corvis, Sycamore and iXL), that the SPO offering price was derived from prices that were artificially inflated through market manipulation, that defendants failed to disclose the price inflation, and the materiality of that omission.	<i>Whether defendants set AWPs knowing prices were derived from them and did reimbursement based on these inflated prices occur throughout the market.</i>
That plaintiffs bought their shares in an efficient market.	<i>Was AWP artificially inflated, did defendants conceal such inflation and was it material</i>

IPO Common Question Listed by the Court	AWP Common Question
That defendants' manipulation actually caused inflation of stock prices.	<i>Did scheme inflate drug prices</i>
The true value and actual price of the stock at the time plaintiffs purchased and sold stock.	<i>The but-for price absent the scheme</i>
That press reports and regulatory announcements were neither sufficiently clear nor specific to lace plaintiffs on inquiry notice of the alleged scheme with respect to each issuer.	<i>Reports did not reveal marketing of spread or magnitude</i>